IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.834 OF 1991

Shri Vitthal Rammaya Pulla,)
Age : 53 years, Occupation-Service,)
Resident of N.G.Mill Chawl,)
Room No.38, Municipal House No.63,)
Murarji Peth, Solapur.).. Petitioner
(Org.Defendant)

Vs.

The General Manager,)
Nursing Giraji Mills,)
District - Solapur, Solapur.)
(The Unit of the Maharashtra State)
Textile Corporation)).. Respondent
(Org.Plaintiff)

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Smt.Ankita Aher-Sawant for Shri A.V.Anturkar for the petitioner.

None for the respondent.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 6th SEPTEMBER, 2004.

ORAL JUDGMENT:

1. Heard the learned advocate for the petitioner.

None present for the respondents.

2. The petitioner challenges the judgment and order passed by the Additional District Judge, Solapur, in Civil Appeal No.694 of 1987 dated 23rd November, 1990 and confirming the judgment and order passed by the Joint Civil Judge, Junior Division, Solapur, in Regular Civil Suit No.1077 of 1983 on 30th September, 1987 solely on the ground that the suit was

filed in the name of Mill when the Mill has already gone into the liquidation and was taken over by the Government, and, therefore, the Mill had no locus standi to file the suit, and in that connection, reliance is sought to be placed in the decision of the learned Single Judge in the matter of **Tukaram Narayan Margam v. Narsingh Giriji Mill, Solapur,** reported in 2002(1) Mh.L.J. 930.

3. Upon hearing the learned advocate for the petitioner and perusal of the records, it is apparent that the suit in question was filed with the cause title as "Nursing Giriji Mills, Solapur" (a Unit of Maharashtra State Textile Corporation). The plaint also discloses that the pleadings were signed by the Principal Officer of the Corporation so also the verification of the plaint was done by the Principal Officer of the Corporation.

4. Order I Rule 29 of the Code of Civil Procedure clearly permits that the pleadings in relation to the suits filed by the Corporation can be signed and verified by a Principal Officer of the Corporation. It cannot be disputed that once the Mill has gone into the liquidation and has taken over by the Government, the Mill will have no locus standi to file a suit. However, in the case in hand, perusal of the plaint and the records discloses that the suit has not been filed by the Mill, which had gone into the

liquidation, but the same has been specifically filed by the Corporation, which had taken over the establishment of the said Mill. The pleadings in the plaint specifically disclose the fact that since the financial condition of the Mill had not been satisfactory, it had gone into liquidation, and, therefore, the Government of Maharashtra had purchased the said Mill in auction, and thereafter, from 1st April, 1976, it was taken over by the Maharashtra State Textile Corporation and Shri Y.E.Choudhary was its Principal Officer in relation to the said Mill, who was authorised to file a suit and he had accordingly signed the pleadings as well as verified the plaint. Consequently, the plaint was lawfully lodged on behalf of the Corporation.

5. Undoubtedly, the cause title of the plaint, as already noted above, discloses the name of "Narsingh Girji Mill" along with that of the Corporation. There is specific averment in the plaint to the effect that the Mill is one of the units of such Corporation. Being so, merely because such name of the Mill is incorporated in the cause title of the plaint alongwith that of the Corporation, that by itself would not render the suit to be bad in law nor it can be said that the suit has been filed by the said Mill, which had already gone into liquidation, and not by the Corporation.

6. What is more important is that, undisputedly, the petitioner had not raised any such objection in the written statement. Had there been any objection raised at an appropriate stage and time, nothing would have prevented the Courts below from exercising the powers under Order I Rule 10 of the Code of Civil Procedure to pass appropriate order in that regard as also the respondent / original plaintiff could have been put on guard and could have taken steps for amendment to the cause title and, if necessary, to take steps in terms of the provisions of the Order I Rule 10(1) of the Code of Civil Procedure. It is too late for petitioner/ original defendant to non-suit the respondent/ original plaintiff purely on a technical ground and that too when the plaint on the face of it discloses that the same has been filed by the Corporation. Time and again, it has been held that the rules of procedure are meant to facilitate the parties to place their case before the court and to assist the court in imparting fair justice to the parties and not to create hurdles in the administration of justice. Considering the pleadings in the plaint, the objection sought to be raised is purely of technical nature.

7. The decision of the learned Single Judge in **Tukaram Narayan Mirgam's case (supra)** has no application to the case in hand, as the said suit

itself had been filed in the name of the Mill and it was not filed on behalf of the Corporation.

8. For the reasons stated above, there is no case for interference in the impugned judgment and order. Accordingly, the petition fails and is dismissed with no order as to costs. Rule stands discharged.